

SAN JUAN COUNTY, UTAH

ORDINANCE NO. 2023 - _____

(SOUND POLLUTION)

AN ORDINANCE ADDING CHAPTER 91 TO TITLE IX, OF THE SAN JUAN COUNTY, CODE OF ORDINANCES WITH THE FOLLOWING PROVISIONS DEALING WITH SOUND POLLUTION.

WHEREAS, San Juan County (“County”) does not currently have a SOUND POLLUTION ORDINANCE;

WHEREAS, the Board of Commissioners for San Juan County (the Board) believe it to be in the best interests of the County to adopt an ordinance to identify and define SOUND POLLUTION, and to identify certain conditions which constitute unacceptable level of sound, together with enforcement provisions available to the County;

WHEREAS, the County desires to establish minimum standards to:

A. Reduce the making and creation of excessive or unusual noises in the unincorporated areas of San Juan County; and

B. Prevent excessive or unusual noises that are prolonged or unreasonable in their time, place, or use, that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of and visitors to the unincorporated areas of San Juan County; and

C. Secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of the residents of and visitors to the unincorporated areas of San Juan County.

D. Protect and preserve the County’s residential areas and Community Zones from avoidable noise impacts caused by excessive or unusual noises; and

E. Balance the natural quiet of the surrounding mountain, canyon and desert landscape, while promoting a tourist based economy that depends on a variety of users and recreational experiences including mountain bikers, motorized Jeep/4x4 users, hikers, equestrians, hunters, boaters, fishermen, climbers, dirt bikers, motorcyclists, bird watchers, road bikers, and adventure athletes such as rock climbers, base jumpers and slackliners.

NOW, THEREFORE, THE BOARD OF SAN JUAN COUNTY COMMISSIONERS ORDAINS THE FOLLOWING:

TITLE IX, CHAPTER 91: SOUND POLLUTION

CHAPTER 91.01 GENERAL PROHIBITION OF NOISE.

Chapter §91.01.010: General Prohibition of Noise. It is unlawful for any person to produce, continue, or cause to be produced or continued, any Excessive or Unusual Noise during any hours or Loud Noise during Restricted Hours within the unincorporated areas of San Juan County that violates this Title.

Chapter §91.01.020: Powers and Duties. The Sheriff, County Attorney, Commission Administrator, and Planning and Zoning Administrator shall be responsible for the administration of these rules and regulations and any other powers vested in them by law and shall make inspections of any premises and issue orders as necessary to effect the purposes of these regulations, and do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

Chapter 91.02 DEFINITIONS

Chapter §91.02.001 Definitions

“ATV” means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Utah Code Annotated §41-6a-1509 to operate on highways in the state in accordance with Utah Code Annotated §41-6a-1509.

“Commercial Zones” means Neighborhood Commercial, General Business, Highway Commercial, Resort Commercial and Resort Special and associated permissible overlays established by the San Juan County Land Use Code. Commercial Zones shall not include the Heavy or Light Industrial Zones.

“County” means San Juan County or its designee, and all such references to a County employee or elected officer shall include their designee;

“dBA” means the sound pressure level using the “A” frequency weighting and the fast response setting on a Sound Level Meter, unless otherwise noted or required by testing standards established by the County.

“Device” means any mechanism that is intended to produce, or that actually produces noise when operated or handled.

“Domestic Power Tools and Equipment” means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used, or is actually used for residential construction, repair, and maintenance.

“Emergency” means a situation or occurrence which may present an imminent threat to the health, safety or welfare of any person, place or property.

“Excessive or Unusual Noise” means any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during all hours” set forth in Chapter §91.05 when measured at the distances provided therein as measured on a Sound Level Meter.

“Loud Noise” means any Sound or Noise that annoys or disturbs a reasonable person(s) with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of another person(s), including any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during Restricted Hours” set forth in Chapter §91.05 when measured at the distances provided therein as measured on a Sound Level Meter.

“Motorcycle” means a motor vehicle, other than a tractor, having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, or an auticycle, including an off-road motorcycle, as defined in Utah Code § 41-1a-102(42).

“Motor Vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways, as defined in Utah Code § 41-1a-102, including ATVs and Motorcycles. Motor Vehicle and Vehicle may be used interchangeably herein.

“Muffler” means an apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound, or as otherwise defined by Utah law.

“Noise” means any sound that is harmful to the health, well-being, or quality of life of humans or animals.

“Noise Disturbance” means any sound in an environment which is (a) harmful to the health, well-being, or quality of life of humans or animals; (b) unreasonably annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property. Noise Disturbance constitutes noise pollution.

“Off-Highway Motorcycle” means any motorcycle that is not an On- Highway Motorcycle.

“Off-Highway Vehicle” means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle as defined in Utah Code § 41-22-2, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509.

“On-Highway Motorcycle” means any motorcycle that: (a) is capable of achieving a maximum speed of at least 25 mph over a level paved surface and is equipped with features customarily associated with practical street or highway use, such features including but not limited to any of the following: stoplight, horn, rear view mirror, turn signals; or (b) has an engine displacement less than 50 cubic centimeters; produces no more than two brake horsepower; and cannot cannot exceed 30 mph over a level paved surface.

“Plainly Audible” means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

“Property Boundary” means an imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that property owned by another person.

“Residential Property” shall mean any property used for living or dwelling by individuals.

“Residential Zones” shall mean the Small Lot Residential, Large Lot Residential, Rural Residential and Multi-Family Residential Zones and associated permissible overlays established by the San Juan County Land Use Code. As used herein, Residential Zone does not include the Range and Grazing Zone.

“Restricted Hours” are from 9 pm to 7 am (and 9 pm to 9 am on Sunday), except during the summer months, defined as May through September, when the Restricted Hours are from 10 pm to 6 am.

“Sound” means a temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium, and that propagates at finite speed to distant points.

“Sound Level Meter” or “SLM” means a sound level meter meeting the ANSI S1.4 Type 1 or Type 2 standard for sound level meters, or the IEC 61672 Class 1 or Class 2 standard for sound level meters.

“Vehicle” means all Motor Vehicles and Off-Highway Vehicles as defined by Utah Code, Title 41, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509. Vehicle and Motor Vehicle may be used interchangeably herein.

CHAPTER 91.03: GENERAL NOISE DISTURBANCE PROHIBITED

§91.03.010. General Noise Disturbance Prohibited. No person shall make, continue, or cause to be made or continued any Noise Disturbance.

CHAPTER 91.04: SPECIFIC NOISE PROHIBITIONS

§91.04.010. Specific Noise Prohibitions During Restricted Hours.

Regardless of the Maximum Sound Pressure Level, the following Noise is expressly prohibited outdoors during the Restricted Hours, unless permitted by San Juan County:

Radios, Receivers, Televisions, Stereos, Speakers, Musical Instruments and Similar Devices for the production or reproduction of Sound if Plainly Audible one hundred feet (100') from the Emitting Property Boundary or fifty feet (50') from the source of the Sound if on public property;

Public Loudspeakers or sound amplifying equipment in a fixed or moveable position or mounted upon any sound vehicle on any public or private property for the purposes of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons;

Animals that make frequent or habitual Noise, which prohibition shall apply to all private and public facilities, including any animal facilities that hold or treat animals;

Loading Operations within five hundred feet (500') of Residential Property, except as necessary for the collection of garbage, waste, refuse or recyclables by an operator approved by San Juan County;

Domestic Power Tools and Equipment;

Fireworks, Explosives, Guns or other Explosive Devices;

Powered Model Mechanical Devices powered by internal combustion engines, whether tethered or remote-controlled, or a model rocket vehicle, drone or other similar noise-producing devices; and

Bells and Alarms including but not limited to, bells, chimes, or clocks in schools, houses of religious worship or governmental buildings for longer than five (5) minutes in any hour except in the event of emergency or natural disaster.

CHAPTER 91.05: NOISE LEVELS

§91.05.010 Noise Levels. Except as expressly provided herein, no person shall make Noise which creates Excessive or Unusual Noise during any hours or Loud Noise during the Restricted Hours, as set forth in Tables 1, 2 and 3 below.

Table 1
Motor Vehicles (Stationary/Equipment Test) Maximum Sound Pressure
Levels, dBA Emitted by Source

Measured at a distance of 20" from Exhaust Outlet at an Angle of 45 degrees		
Motor Vehicle Type	Stationary Test (Equipment Test)	Maximum Sound Pressure Levels during All Hours
ATVs	SAE J1287	92 dBA
All Other Motor Vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds	SAE J1492	92 dBA
Motorcycles	N/A	See Section §91.06.030

Table 2
Motor Vehicles (Moving/Operational Test) Maximum Sound Pressure Levels,
dBA Emitted by Source

Measured at a Distance of 25' from Centerline of Lane of Travel on County B Roads		
Motor Vehicle Type	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours

Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	80 dBA	78 dBA
Measured at a Distance of 50' from Centerline of Lane of Travel on County B Roads		
Motor Vehicle Type	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours
Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	74 dBA	72 dBA

**Table 3 Land Uses
Maximum Sound Pressure Levels, dBA Emitted by Source Measured at Nearest Property Boundary**

	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours
All Noise Impacting Residential Property, unless prohibited in Section §91.04.010	60 dBA	55 dBA
All Noise Impacting Residential and Nonresidential Property, unless prohibited in Section §91.04.010	65 dBA	60 dBA

CHAPTER 91.06: MOTOR VEHICLES

§91.06.010 Motor Vehicle Regulations.

A person shall not:

- a. Equip, maintain, or operate a Vehicle that creates or causes Excessive or Unusual Noise;

- b. Operate any Vehicle, except an electric vehicle without a spark arrestor device and a muffler or other effective noise suppressing system in good working order and in constant operation;
- c. Use a muffler cut-out, bypass, or similar device on a vehicle; or
- d. Use a compression brake system(s) except as necessary for an emergency stop.

Chapter 91.06.020: Certain Noises Prohibited on Public Rights-of-Way During All Hours.

The following Noise is declared to be Excessive or Unusual Noise and expressly prohibited during all hours on County B Roads and related public rights-of-ways in the unincorporated County:

- a. Horns and Signaling Devices on any Vehicle, except as a danger warning signal as provided by the Utah Vehicle Code;
- b. Racing Events unless such activity occurs during a permitted Special Event in San Juan County;
- c. Revving, aka rapid throttle advance, of an engine; and
- d. Any noise-creating device, including a Vehicle, operated for the purpose of drawing attention to the source of the noise.

Chapter 91.06.030: Motorcycles.

No person shall operate an On-Highway Motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle’s model year, stating that the exhaust system meets the 80 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.

No person shall operate an Off-Highway Motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle’s model year, stating that the exhaust system meets the 82 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.

Chapter 91.07: EXEMPTIONS; EXCEPTIONS

Chapter §91.07.010 Exemptions

The following Noise shall be exempt from **Chapter §91.05:**

- a. Safety signals, warning devices and emergency pressure relief valves;
- b. That resulting from any emergency or natural disaster, including Noise created by authorized private and public emergency and private or public utilities when restoring service;
- c. Activities of a temporary nature during periods permitted by ordinance, policy, or permit by the County Council, Planning and Zoning Administrator, or Chair of the Special Events Committee or their official designees, including sporting and recreational activities;
- d. Agricultural and gardening operations where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) any equipment is used according to the manufacturer's specifications and is in good working order; and iii) such operations do not occur during the Restricted Hours;
- e. Construction, fabrication, and property maintenance activities where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) all equipment is used according to the manufacturer's specifications and is in good working order; iii) such activity does not occur during the Restricted Hours; and iv) such activity is not of unusual duration or occurrence;
- f. The unamplified human voice, except as limited by Utah Statute § 76-9-102 (Disorderly Conduct); and
- g. Snow removal.

Chapter §91.07.020: Exceptions.

On or before July 31, 2021, the owner of any residential, commercial or industrial source of sound may apply to the Planning and Zoning Administrator (or designee) for an exception in order to provide time to comply with the maximum sound pressure levels set forth in Table 3 of Section §91.05.010 above. The Planning and Zoning Administrator shall have the authority, consistent with this Section, to grant an exception, not to exceed 365 days from the date of such application unless extended by the Planning and Zoning Administrator for good cause.

Any person seeking an exception in time to comply shall file an application with the Planning and Zoning Administrator. The application shall contain information which demonstrates that bringing the source of sound or activity for which the exception is sought into compliance with this Chapter prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. The applicant shall mail notice of the application for an exception in time to all neighbors within one hundred feet (100') of the source of the sound and shall file an affidavit of mailing with the Planning and Zoning Administrator. Any individual who claims to be adversely affected by allowance of the exception in time to comply may file a statement with the Planning and Zoning Administrator containing any information to support their claim. If the Planning and Zoning Administrator finds that a sufficient controversy exists regarding an application, a public hearing may be held.

In determining whether to grant or deny the application, the Planning and Zoning Administrator shall balance the hardship to the applicant, the community, and other persons of not granting the exception in time to comply, against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the exception. Applicants for exceptions in time to comply and persons contesting exceptions may be required to submit any information the Planning and Zoning Administrator may reasonably require. In granting or denying an application, the Planning and Zoning Administrator shall place on public file a copy of the decision and the reasons for denying or granting the exception in time to comply including a statement that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

The Planning and Zoning Administrator may grant or deny the application. If the application is granted, the Planning and Zoning Administrator may impose conditions, including a schedule for achieving compliance. Noncompliance with any condition of the exception shall terminate the exception and subject the person holding it to those provisions of this Chapter for which the exception was granted.

Appeals of an adverse decision of the Planning and Zoning Administrator shall be made to the Planning and Zoning. Review by the Planning and Zoning shall be limited to whether the decision is supported by substantial evidence.

CHAPTER 91.08: ENFORCEMENT

Chapter 91.08.010: Violation.

Any person who is found guilty of violating this Title IX, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a Class B misdemeanor punishable by a maximum sentence of up to six months in jail and a maximum fine of \$1,000. Each day such violation is committed or permitted to continue shall constitute a separate violation unless limited by Utah law.

Chapter 91.08.020: Nuisance

As an additional remedy, the operation or maintenance of any device, instrument, Vehicle or machinery in violation of any provisions of this chapter, or which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement as provided by law.

Chapter 91.08.030: Enforcement

Any peace officer is authorized to enforce the provisions of this section; provided that the County Commission may by administrative order authorize other officers or employees of the County to enforce all or part of the provisions of this Title IX.

The County Attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this Title IX. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating this Title IX shall be liable for all expenses incurred by the County in removing or abating the Loud or Excessive Noise.

Chapter 91.08.040: Severability.

In case any provision of this Title IX shall be declared invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San

Juan County in an open meeting this ____ day of _____ 20____.

Voting Aye: _____

Voting Nay: _____

ATTEST: SAN JUAN COUNTY BOARD OF COMMISSIONERS:

Lyman Duncan, Clerk/Auditor

Bruce Adams, Chair